

Attachment N-1

Local Request for Waiver Procedure

I. General Requirements

- A. Any of the statutory or regulatory requirements of Subtitle B or Subtitle E of Title I of WIA may be waived **except** for requirements relating to:
- Wage and labor standards
 - Non-displacement protections
 - Worker rights
 - Participation and protection of workers and participants
 - Grievance procedures and judicial review
 - Nondiscrimination
 - Allocation of funds to local areas
 - Eligibility of providers or participants
 - The establishment and functions of local areas and local boards
 - Procedures for review and approval of local plans *[WIA §189(i)(4)(A)(i); 20 CFR 661.410]*
- B. A waiver plan to improve the workforce investment system must be submitted by the local board, with agreement of the chief elected official(s), to the Arkansas Workforce Investment Board (at the address below) for review and recommendation to the Governor of Arkansas. The Governor may then request the Secretary of the Department of Labor for a waiver. The plan must include:
- Identification of the statutory or regulatory requirements that are requested to be waived and the goals that the local area intends to achieve as a result of the waiver and how these goals relate to the goals stated in the local and state 5-year plans
 - A description of the actions that the local area has undertaken to remove local statutory or regulatory barriers
 - A description of the goals of the waiver and the expected programmatic outcomes if the request is granted
 - A description of the individuals affected by the waiver
 - A description of the process used to monitor the progress in implementing such a waiver
 - A description of the process by which notice and opportunity to comment on such a request has been provided. *[WIA §189(i)(4); 20 CFR 661.42]*
- C. The Secretary will issue a decision on a waiver request within 90 days after the receipt of the original waiver request. The Secretary will approve a waiver request if and only to the extent that:
- The Secretary determines that the requirements for which a waiver is requested impede the ability of the local area to implement the state's plan to improve the Statewide workforce investment system

- The Secretary determines that the waiver plan meets all of the requirements of WIA §189(i)(4) and 20 CFR 661.400 – 661.420
 - The State has executed a memorandum of understanding with the Secretary requiring the State to meet, or ensure that the local area meets, agreed-upon outcomes and to implement other appropriate measures to ensure accountability *[WIA §189(i)(4)(C); 20 CFR 661.400(a); 20 CFR 661.420(d); 20 CFR 661.420(e)]*
- D. The Secretary does not intend to waive any of the statutory or regulatory provisions essential to the key reform principles embodied in the Workforce Investment Act, described as follows, except in extremely unusual circumstances where the provision can be demonstrated as impeding reform:
- Streamlining services and information to participants through a One-Stop delivery system
 - Empowering individuals to obtain needed services and information to enhance their employment opportunities
 - Ensuring universal access to core employment-related services
 - Increasing accountability of States, localities and training providers for performance outcomes
 - Establishing a stronger role for local boards and the private sector
 - Providing increased state and local flexibility to implement innovative comprehensive workforce investment systems
 - Improving youth programs through services which emphasize academic and occupational learning *[20 CFR 661.400(b); 20 CFR 661.410(c)]*
- E. The Secretary may issue additional guidelines. *[20 CFR 661.420(g)]*

II. Waiver of Training Prohibition by the Board or its Staff *[WIA 117(f); 20 CFR 661.310; Act 1125 §11(l)]*

The Governor may grant the request of a local board to waive the prohibition against the board's providing training services described in WIA §134(d)(4). The following procedure must be followed in order to receive this waiver:

- A. A written proposed request for the waiver must be submitted to the Arkansas Workforce Investment Board (at the address below) for review and recommendation to the Governor. This request must include:
- Satisfactory evidence that there is an insufficient number of eligible providers of such a program of training services to meet local demand in the local area
 - Information demonstrating that the board meets the requirements for an eligible provider of training services under WIA §122
 - Information demonstrating that the program of training services prepares participants for an occupation that is in demand in the local area
- B. The proposed request must be available to eligible providers of training services and other interested members of the public for a public comment period of not less than 30 days.

- C. After the comment period, a final request must be submitted with the evidence and information described in II(A) and the comments received pursuant to II(B).
- D. The Governor will grant a written waiver or a written denial within 60 days of receipt of the final request.
- E. The waiver will apply for a period not to exceed one (1) year. The waiver may be renewed for additional periods of not to exceed 1 year, pursuant to requests from the local board, if the board meets the requirements II(A-C) above in making the requests.
- F. A waiver may be revoked if the Governor determines that the local board involved has engaged in a pattern of inappropriate referrals to training services operated by the local board.

III. Restrictions on the Provision of Core and/or Intensive Services by the Local Board (including Staff) and Designation as a One-Stop Operator *[WIA §117(f)(2); 20 CFR 661.310; Act 1125 §11(p)]*

A local board may not directly provide core services described in WIA §134(d)(2), intensive services described in WIA §134(d)(3) or be designated as a One-Stop operator, unless agreed to by the chief elected official(s) and the Governor of Arkansas. The following procedure must be followed:

- A. The local board, in agreement with the chief elected official(s) must submit a written proposed request to be a provider of core and/or intensive services and/or a One-Stop operator to the Arkansas Workforce Investment Board (at the address below) for review and recommendation to the Governor.
- B. This proposed request must describe the services to be provided, identify the other providers/operators available to provide the services, and state why the local board would be a superior provider of these services.
- C. Since, the local board identifies eligible providers of intensive services, designates and terminates for cause One-Stop operators, and oversees the One-Stop delivery system and activities, the proposed request must describe the checks and balances that are to be put in place to provide accountability.
- D. The proposed request must be available to potential providers of described services and other interested members of the public for a public comment period of not less than 30 days.
- E. After the comment period, a final request must be submitted with the evidence and information described in III(B) and the comments received pursuant to III(D).

- F. The Governor will grant or deny the request in writing within 60 days of receipt of the final request.
- G. The agreement will apply for a period not to exceed two (2) years. The agreement may be renewed for additional periods of not to exceed 2 years, pursuant to requests from the local board, if the board meets the requirements III(A-E) above in making the requests.
- H. The agreement may be revoked if the Governor determines that the local board is not providing satisfactory services.

All correspondence to the Arkansas Workforce Investment Board concerning this matter should be delivered in person or be sent by certified mail, return receipt requested, to:

Executive Director
Arkansas Workforce Investment Board
320 Executive Court, Suite 302
Little Rock, Arkansas 72205